

SECOND REGULAR SESSION

# SENATE JOINT RESOLUTION NO. 27

95TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR LEMBKE.

Pre-filed December 1, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

3092S.011

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## JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing sections 25(a) and 25(c)(1) of article V of the Constitution of Missouri, and adopting two new sections in lieu thereof relating to judicial appointments.

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*Be it resolved by the Senate, the House of Representatives concurring therein:*

That at the next general election to be held in the state of Missouri, on  
2 Tuesday next following the first Monday in November, 2010, or at a special  
3 election to be called by the governor for that purpose, there is hereby submitted  
4 to the qualified voters of this state, for adoption or rejection, the following  
5 amendment to article V of the Constitution of the state of Missouri:

Section A. Sections 25(a) and 25(c)(1), article V, Constitution of Missouri,  
2 are repealed and two new sections adopted in lieu thereof, to be known as  
3 sections 25(a) and 25(c)(1), to read as follows:

Section 25(a). Whenever a vacancy shall occur in the office of judge of any  
2 of the following courts of this state, to wit: The supreme court, the court of  
3 appeals, or in the office of circuit or associate circuit judge within the city of St.  
4 Louis and Jackson County, **or any other judicial circuit which has elected**  
5 **to have their circuit and associate circuit judges appointed by the**  
6 **governor in the manner provided by this section**, the governor shall fill  
7 such vacancy by appointing [one of three persons] **a person** possessing the  
8 qualifications for such office, [who shall be nominated and whose names shall be  
9 submitted to the governor by a nonpartisan judicial commission established and  
10 organized as hereinafter provided. If the governor fails to appoint any of the  
11 nominees within sixty days after the list of nominees is submitted, the  
12 nonpartisan judicial commission making the nomination shall appoint one of the

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

13 nominees to fill the vacancy] **by and with the advice and consent of the**  
 14 **senate. If the senate is in regular session, and such appointment is**  
 15 **made more than sixty calendar days prior to the end of the regular**  
 16 **session, the senate shall vote on such appointment within sixty**  
 17 **calendar days. If the appointment is made in the last sixty calendar**  
 18 **days of the regular session or prior to the session held beginning on the**  
 19 **first Wednesday following the second Monday in September, the senate**  
 20 **shall vote on such appointment at such September session. Any**  
 21 **appointment made after the September session shall be voted on at the**  
 22 **next regular legislative session. The appointee shall have no authority**  
 23 **to act until they receive the advice and consent of the senate.**

Section 25(c)(1). Each judge appointed pursuant to the provisions of  
 2 sections 25(a)-(g) shall hold office for a term ending December thirty-first  
 3 following the next general election after the expiration of twelve months in the  
 4 office. Any judge holding office, or elected thereto, at the time of the election by  
 5 which the provisions of sections 25(a)-(g) become applicable to his office, shall,  
 6 unless removed for cause, remain in office for the term to which he would have  
 7 been entitled had the provisions of sections 25(a)-(g) not become applicable to his  
 8 office. Not less than sixty days prior to the holding of the general election next  
 9 preceding the [expiration of his term of] **judge's tenth year in** office, any judge  
 10 whose office is subject to the provisions of sections 25(a)-(g) may file in the office  
 11 of the secretary of state a declaration of candidacy for election to succeed himself.  
 12 If a declaration is not so filed by any judge, the vacancy resulting from the  
 13 expiration of his term of office shall be filled by appointment as herein provided.  
 14 If such declaration is filed, his name shall be submitted at said next general  
 15 election to the voters eligible to vote within the state if his office is that of judge  
 16 of the supreme court, or within the geographic jurisdiction limit of the district  
 17 where he serves if his office is that of a judge of the court of appeals, or within  
 18 the circuit if his office is that of circuit judge, or within the county if his office is  
 19 that of associate circuit judge on a separate judicial ballot, without party  
 20 designation, reading:

21 "Shall Judge .....  
 22 (Here the name of the judge shall be inserted)  
 23 of the .....  
 24 (Here the title of the court shall be inserted)

25 be retained in office? Yes  No

26 (Mark an "X" in the box you prefer.)"  
27 If a majority of those voting on the question vote against retaining him in office,  
28 upon the expiration of his term of office, a vacancy shall exist which shall be filled  
29 by appointment as provided in section 25(a); otherwise, said judge shall, unless  
30 removed for cause, remain in office for the number of years after December  
31 thirty-first following such election as is provided for the full term of such office, and  
32 at the expiration of each such term shall be eligible for retention in office by  
33 election in the manner here prescribed.

Unofficial ✓

Bill

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